

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

MICHAEL CHRISTOPHER STOFFA,

Petitioner,

v.

Action No. 2:16cv207

JEFFREY KISER,
Warden Keen Mountain Correctional Center,

Respondent.

FINAL ORDER

Michael Christopher Stoffa, a Virginia inmate, submitted a petition for writ of habeas corpus with the assistance of counsel, pursuant to 28 U.S.C. § 2254. ECF No. 1. The petition alleges violations of federal rights pertaining to Stoffa's conviction on August 19, 2011 in the Circuit Court for the City of Newport News for second degree murder and two counts of felony child neglect. Stoffa was sentenced to serve 40 years in prison for second degree murder and a consecutive 20 years in prison for two counts of felony child neglect (10 years for each count).

The matter was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed July 8, 2016, recommends that respondent's motion to dismiss be granted, and the petition for a writ of habeas corpus be denied and dismissed with prejudice. ECF No. 10. Each party was advised of the right to file objections to the findings and recommendations made

by the Magistrate Judge. The Court has received no objections to the report and recommendation and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that respondent's motion to dismiss, ECF No. 5, is **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that Judgment be entered in favor of respondent.

Stoffa has failed to demonstrate "a substantial showing of the denial of a constitutional right," and, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

Stoffa is hereby notified that he may appeal from the Judgment entered pursuant to this final order by filing a notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

The Clerk shall mail a copy of this final order to petitioner and to counsel of record for respondent.



Mark S. Davis
United States District Judge

Mark S. Davis
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
August 4, 2016